REMARKS

With this amendment, Applicants have amended claim 87 to clarify the subject matter of the present invention, and have cancelled claim 88, without prejudice. This amendment responds to the March 27, 2006 Office Action. Applicants thank the Examiner for acknowledging the patentability of claims 50, 52, 64-66, 70 and 72. In the Office Action the Examiner:

- objected to claims 45 and 60 due to informalities;
- rejected claims 45-47, 51, 53-55, 59, 82, 84, 85, and 87-90 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,328,597 to Boldt, Jr. et al. ("Boldt");
- rejected claims 60-62 and 78-81 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,539,797 to Livingston et al. ("Livingston");
- rejected claims 48 and 49 under 35 U.S.C. § 103(a) as being obvious over Boldt;
- rejected claims 63 and 74-77 under 35 U.S.C. § 103(a) as being obvious over Livingston;
- rejected claims 56-58, 67-69, 71, and 73 under 35 U.S.C. § 103(a) as being obvious over Boldt, in view of Livingston; and
- objected to claims 50, 52, 64-66, 70, and 72 as being dependent upon a rejected base claim.

Applicants respectfully traverse those rejections.

As to the objection to claims 45 and 60, the "and/or" and "and" conjunctions, respectively, in the clauses (1) "determining an amount of water added to and/or consumed from a filtered water container" and (2) "over a time period in which water is added to and consumed from the container" are intended to be different. In the former clause, the "and/or" conjunction is used to clarify that the claim includes within its scope (i) apparatuses that determine the amount of water added to a filtered water container, (ii) apparatuses that determine the amount of water consumed from the container, and (iii) apparatuses that determine both the amount of water added to and the amount of water consumed from the container. In the latter clause, the "and" conjunction is used to define a time period in which water is both added to and consumed from the container. Applicants do not believe that that usage renders the claims objectionable.

As to the rejection of independent claims 45, 82 and 87 as anticipated by Boldt, Applicants respectfully submit that Boldt does not disclose a device that "determines said amount of filtered water added to and/or consumed from said filtered water container," as recited in claim 45, or a method of "determining an amount of filtered water consumption from the changes in the water level," as recited in claim 82 and amended claim 87.

Boldt simply does not determine an amount of filtered water. It instead describes a water treatment apparatus that determines when a filter cartridge must be replaced by (1) counting the number of times a container is filled up with water, and (2) determining the flow rate through a filter cartridge. Boldt, col. 4, l. 58 – col. 5, l. 15. As to (1), Boldt states that the filter cartridge is "designed to filter the water for a maximum of X or 101 fill ups of the container." Boldt, col. 4, ll. 61-65. It is thus similar in principle to the devices described in the Background section of the present application that "count[] the number of times that the lid is opened for water filling." Specification, p. 2, ¶ 5. Such devices do not measure an "amount" of water, but instead only the number of times the container is filled. If, however, the container is not completely filled at each "fill up" (because, for example, the container has some water remaining in it or the container is only partially filled), such devices may determine that the filter is in need of replacement prematurely. The present invention, in contrast, determines the actual amount of water that was filtered and, therefore, may more precisely determine when a filter needs to be replaced.

As to (2), Boldt states that the flow rate through the cartridge may slow down towards the end of the useful life of the cartridge. Boldt, col. 5, ll. 9-15, col. 7, ll. 24-27. It measures this by determining the time it takes for the water to drop from electrode 28 to electrode 30 for each fill. *Id.*, col 7, ll. 31-38. "When the flow rate though the cartridge has degraded a predetermined percentage such as 60% from the initial flow rate the cartridge should be replaced." *Id.*, col. 7, ll. 38-41. This again has nothing to do with measuring the amount of filtered water added to and/or consumed from the container.

Boldt is thus entirely missing a limitation of each of claims 45, 82 and 87, and, accordingly, cannot anticipate those claims.

Rejected dependent claims 46-49, 51, 53-59, 84-86, and 89-90 are patentable for at least the same reasons that the independent claims, from which each depends, are patentable.

Also, with respect to dependent claim 47, Boldt does not disclose a "switch," as recited in the claim. Examples of switches, as recited in claim 47, are given in the specification of the

present application at page 26, ¶ 82 through page 28, ¶ 86. They include manual switch 510, lid switch 520, and bubble switch 610. The "de-bounce timer," identified by the Examiner, is not a "switch", as recited in the claim. Instead, it is simply a short period of time (3 seconds) during which the microprocessor in Boldt delays determining whether the fill up sensor contacts are closed, so that a contact "bounce" is not counted as an additional "fill up."

With respect to dependent claims 48 and 49, there is no disclosure whatsoever in Boldt of "toggl[ing]" a switch "by a user," as recited in claim 48, or positioning a switch such that it changes states when the "lid" is "open" or "closed," as recited in claim 49. Applicants respectfully submit that the Examiner applied improper hindsight in concluding that claims 48 and 49 are obvious over Boldt.

With respect to dependent claim 51, there is no disclosure in Boldt of a control unit that "determines that said filtered water container is in a functional state when a rate of change in a water level in said filtered water tank is below a predetermined rate," "determines that said filtered water container is in a nonfunctional state when a rate of change of water level in said filtered water tank is above a predetermined rate," "determines changes in water level occurring when said filtered water container is in said functional state," and "does not determine changes in water level occurring when said filtered water level container is in said nonfunctional state," as recited in that claim. The portion of Boldt cited by the Examiner describes the "flow rate" of water through a filter cartridge—that has nothing to do with determining whether the filtered water container is in a functional or nonfunctional state. Instead, it describes a method of determining when the filter cartridge needs replacement—in particular, when the flow rate through the cartridge has degraded to a predetermined percentage of the initial flow rate.

With respect to dependent claim 54, Boldt does not disclose a display to "display information derived from the changes in water level," as recited in that claim. The portion of Boldt cited by the Examiner (display 184) is part of a "calibrated test instrument," not the monitoring unit, and displays, for example, the time remaining until the next calibration due date, not information derived from changes in water level.

With respect to dependent claim 55, the portion of Boldt cited by the Examiner (col. 4, l. 65 – col. 5, l. 15) does not describe a "display," as recited in that claim.

With respect to claim 85, the portion of Boldt cited by the Examiner (claim 6) has nothing to do with the limitations of that claim.

With respect to claim 86, the Examiner has given no grounds for rejecting that claim. In addition, claim 86 is similar to claim 64, which the Examiner had found patentable.

As to the rejection of independent claim 60 as anticipated by Livingston, Applicants respectfully submit that Livingston, like Boldt, does not disclose a device that "determines the amount of water added to and/or consumed from said filtered water container over a period of time in which water is added to and consumed from the container," as recited in claim 60. Instead, Livingston discloses solely a "level sensor," *i.e.*, a device "adapted to be placed in a reservoir for determining the level of the fluid or material contained within the reservoir." Livingston, p. 3, ll. 20-23. There is simply no description whatsoever in Livingston of determining an amount of fluid added to or consumed from the reservoir over time. Livingston is thus entirely missing a limitation of claim 60, and, accordingly, cannot anticipate that claim.

Dependent claims 61-63, 67-69, 71, are 73-81 are patentable for at least the same reasons that the independent claim, from which each depends, is patentable.

With respect to dependent claims 67-69, those claims are also patentable for the reasons given above in connection with claims 47-49.

With respect to dependent claim 71, that claim is also patentable for the reasons given above in connection with claim 51.

With respect to dependent claim 75, the Examiner has cited no prior art that discloses the claimed display.

Lastly, with respect to claim 87, the addition of the clause "determining an amount of filtered water consumption from the changes in the water level," is intended to include methods that determine that amount from the amount of water added to the container and methods that determine that amount from the amount of water consumed from the container.

This Amendment After Final Action is believed to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Amendment, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it

is respectfully requested that the Examiner contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

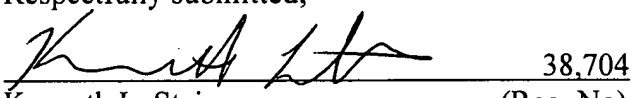
In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached at (212) 891-1615.

No fee is believed owed in connection with the filing of this amendment and response. However, should the Commissioner determine otherwise, the Commissioner is authorized to charge any underpayment or credit any overpayment to Jenner & Block Deposit Account No. 10-0460, for the appropriate amount.

Respectfully submitted,

Date: June 27, 2006



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